

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

JEREMY BLACKBURN,)	
ID # 46001-177,)	
Movant,)	No. 3:16-CV-0052-B
vs.)	No. 3:13-CR-0071-B
)	
UNITED STATES OF AMERICA,)	
Respondent.)	

ORDER ACCEPTING FINDINGS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE

Before the Court are Movant's objections to the Findings, Conclusions, and Recommendation of the United States Magistrate Judge (doc. 19). Movant presents argument that he did not clearly present in his 28 U.S.C. § 2255 motion. He asserts that the abstention doctrine precluded the federal criminal prosecution after a state criminal prosecution had begun. His argument lacks merit. Under the dual sovereignty doctrine, both the United States and a state may prosecute someone for conduct that is both a federal and state offense. *See United States v. Angleton*, 314 F.3d 767, 771-72 (5th Cir. 2002). The abstention doctrine does not prevent a federal prosecution that is permitted by the dual sovereignty doctrine. *See United States v. Jackson*, 491 F. App'x 554, 557 (6th Cir. 2012).


After reviewing all relevant matters of record in this case, including the Findings, Conclusions, and Recommendation of the United States Magistrate Judge and the objections thereto, in accordance with 28 U.S.C. § 636(b)(1), the Court is of the opinion that the Findings and Conclusions of the Magistrate Judge are correct and they are accepted as the Findings and Conclusions of the Court. For the reasons stated in the Findings, Conclusions, and Recommendation of the United States Magistrate Judge, the motion to vacate, set aside or correct sentence filed under 28 U.S.C.

§ 2255 is **DENIED** with prejudice.

In accordance with Fed. R. App. P. 22(b) and 28 U.S.C. § 2253(c) and after considering the record in this case and the recommendation of the Magistrate Judge, the movant is **DENIED** a Certificate of Appealability. The Court adopts and incorporates by reference the Magistrate Judge's Findings, Conclusions and Recommendation in support of its finding that the petitioner has failed to show (1) that reasonable jurists would find this Court's "assessment of the constitutional claims debatable or wrong," or (2) that reasonable jurists would find "it debatable whether the petition states a valid claim of the denial of a constitutional right" and "debatable whether [this Court] was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

If the movant files a notice of appeal, he must pay the \$505.00 appellate filing fee or submit a motion to proceed *in forma pauperis* and a properly signed certificate of inmate trust account.

SIGNED this 24th day of April , 2018.



JANE J. BOYLE
UNITED STATES DISTRICT JUDGE